



Appl. No. 10/034,907  
Applicant : Ann M. Sutherland  
Filed : Dec. 27, 2001  
TC/A.U. : 1771  
Examiner : Jeremy R. Pierce  
Docket No. : 125616-1000  
Customer No. : 32914

Confirmation No. 1575

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
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(37 CFR 1.8a)

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Anne Ziegler

*Anne Ziegler*  
(Signature of person mailing paper)

Date: *Jan. 14, 2005*

REQUEST FOR REINSTATEMENT OF THE APPEAL

Sir:

Pursuant to the Office Action dated October 20, 2004, Appellants in the above-identified application request reinstatement of the appeal.

A Supplemental Brief, in triplicate, is enclosed herewith.

Please charge any fees due or credit overpayments to Deposit Account 07-0153.

Respectfully submitted,

Date: 1/14/05

*Michael E. Martin*  
Michael E. Martin  
Registration No. 24,821  
Agent for Appellants

Gardere Wynne Sewell LLP  
1601 Elm Street, Suite 3000  
Dallas, Texas 75201-4761  
Phone (214) 999-3000  
Fax (214) 999-3623



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Anne Ziegler

*Anne Ziegler*  
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Date:

*Jan. 14, 2005*

SUPPLEMENTAL BRIEF ON APPEAL

Sir:

Pursuant to the filing of an Appeal Brief in the above-identified application on July 23, 2004 and the Office Action dated October 20, 2004, Appellants in the above-identified application have requested reinstatement of the appeal and submit this Supplemental Brief pursuant to the requirements set forth in the Office Action.

### **ARGUMENTS**

In the Office Action referenced above, the Examiner rejected Claims 14, 16, 18 and 19 under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter. In particular, the Examiner has questioned the use of the term "yarn number" in Claims 14 and 16.

Appellants respectfully submit that it is well established that terms of the art used in patent applications will be given their ordinary meaning in the art. In this regard, the Examiner has cited portions of the Complete Textile Glossary, 2001, by Celanese Acetate, LLC. This glossary defines yarn number for manufactured filament yarns as being a direct yarn number, equal to linear density and comprising mass per unit length of yarn. Appellants respectfully submit that one of skill in the art in practicing the present invention would use the yarn number having the meaning as set forth in a glossary of the art and that the use of this yarn number would be clear to one of ordinary skill in the art. In this regard Appellants respectfully submit that they have complied with the requirements of 35 U.S.C. 112. Appellants have disclosed and claimed an article which is defined to include manufactured filament yarns (pigmented acrylonitrile polymer) and has specified the yarn number. It is clear that yarn number for manufactured filament yarns is a defined term in the art (as indicated by the Complete Textile Glossary cited by the Examiner). Accordingly, Appellants respectfully submit that the claims on appeal comply with the requirements of 35 U.S.C. 112

and that the Examiner's rejection of the claims under this section of the statute be reversed.

In the above-referenced Office Action, the Examiner rejected Claim 11 under 35 U.S.C. 103(a) over US Patent 6,037,280 to Edwards in view of US Patent 6,268,450 to Wade and further in view of US Patent 5,503,917 to Hughes. The Examiner argues that Edwards et al. discloses a porous woven fabric that has increased ultraviolet blocking capability. However, as pointed out in Appellants' Brief On Appeal filed on July 23, 2004, Edwards et al. discloses a fabric which is provided with UV blocking particles, the fabric being indicated to be useful for clothing. Edwards et al. discloses that the UV blocking particles may have an aspect ratio of from 2 to 10, may be inorganic, organic or metallic and may reside predominantly in the "interstitial spaces" of the fabric or in the "pores" of the fabric. The UV blocking particles are preferably retained within the fabric using a binding agent. Although Edwards et al. suggests that the fabric is porous, Edwards et al. fills the pores or spaces of the fabric with UV blocking particles and thus the fabric of Edwards et al. loses the advantages of light transmissivity, visual perception therethrough and breatheability provided by Appellants' claimed articles. In fact light transmissivity and visual perception therethrough would not, normally, be desired in clothing articles. Thus, Edwards et al. actually teaches away from attributes desired in window covering panels. Moreover, Edwards et al. does not suggest the particular material of the fabrics of Appellants'

invention, nor does Edwards et al. teach the provision of fabric with a specified size range of openings and a specified range of UV blocking capability. Appellants respectfully submit that Edwards et al. also teaches away from providing openings in the fabric or the provision of openings with a specified size range, a specified material and a specified range of UV blocking capability in A Category and B Category wave lengths.

As argued in Appellants' previous brief, the Wade reference, although disclosing an acrylic fiber polymer precursor for use in fabrics used in outdoor applications, does not disclose or suggest the provision of fabrics for window covering panels having both light transmissivity and UV light blocking characteristics as required by Claims 11 and 16. Accordingly, substituting an acrylic fiber polymer precursor, as suggested by Wade, for the fabric as disclosed by Edwards et al., would still not provide the overall combination of features required by Claim 11 as pointed out herein and as pointed out previously in Appellants' Brief On Appeal.

Still further, with regard to the teaching of the Hughes reference, this patent does not disclose or suggest the provision of a 100% pigmented acrylonitrile polymer having a weave density, nor a grouping of warp and weft threads, arranged to provide for opening sizes in the fabric in the range required by Claim 11 which fabric still provides for UV radiation blockage as set forth in the claim. Although the Examiner takes the position that the range of opening sizes, the grouping of threads, and the weave density which provides the opening sizes

would be obvious to one of ordinary skill in the art, Appellants respectfully submit that the art cited clearly fails to suggest the claimed range of opening sizes in the fabric, the arrangement of groups of threads between openings or the ability to provide human visual perception through a window covering panel while blocking Category A and Category B UV radiation within the ranges or limits required by Claim 11.

In the Office Action, the Examiner rejected Claims 12 and 13 under 35 U.S.C. 103(a) over the Edwards et al., Wade and Hughes references as applied to Claim 11 and further in view of US Patent 3,417,794 to Lynch et al. Appellants respectfully submit that the further teaching of Lynch et al. with regard to the configuration of warp and weft threads in shade screens does not further make obvious the overall combination of features set forth in Claims 12 and 13, considering the lack of teaching in all of the references, taken alone or one modified in view of the other, of providing window covering panels having the requirements set forth in these claims. Since Edwards et al., as modified by Wade and Hughes, clearly fails to provide the invention set forth in Claim 11, Appellants respectfully submit that the further requirements of Claims 12 and 13 with respect to the grouping of warp threads and weft threads is not suggested or made obvious by the overall combination of references of Edwards et al., Wade, Hughes and Lynch et al.

In the Office Action, the Examiner rejected Claims 14 and 16 under 35 U.S.C. 103(a) over the teaching of Edwards et al. in view of Wade, and Hughes and further in view of US Patent

2,039,987 to Goldman. The Goldman reference is cited for disclosing or suggesting the provision of a yarn number of about 24 in open weave sunscreen material. However, the teaching of Goldman does not further make obvious to one of ordinary skill in the art the overall combination of features set forth in Claims 14 and 16. Appellants respectfully submit, as stated hereinabove, that Edwards et al. actually does not teach providing a fabric with openings and having UV light blocking capability, since Edwards et al. requires the addition of UV blocking particles which actually block the openings in the fabric of Edwards et al. Wade merely suggests the provision of acrylonitrile fibers as a precursor and Hughes merely suggests the provision of nylon fabrics for clothing wherein various yarn counts are tested for UV light transmissivity.

The further citation of Goldman does not provide for the overall combination of features of Claims 14 and 16. In this regard, Appellants respectfully submit that, the citation of a large number of references in rejecting the claims, wherein the rejections require the combination of at least three, four or five references, is evidence in itself that the invention set forth in the claims on appeal is not obvious to one of ordinary skill in the art within the meaning of the statute.

In the Office Action, the Examiner rejected Claim 15 under 35 U.S.C. 103 (a) over Edwards et al. in view of Wade, Hughes, Goldman and US Patent 4,751,117 to Goodfellow. The Examiner cites Goodfellow as teaching that providing a yarn with two plies increases strength. However, Goodfellow provides no other

suggestion or teaching which would lead one of ordinary skill in the art to make the overall combination of features set forth in Claim 15, including, in particular, the features of Claims 11, 14 and 15 combined. Accordingly, the rejection of Claim 15 under the obviousness test is believed to be improper also.

Still further, the Examiner rejected Claims 18 and 19 under 35 U.S.C. 103(a) over Edwards et al. in view of Wade, Hughes, Goldman and Lynch et al. Again the Examiner relied on a total of five references to reject claims to a light transmitting window covering panel having particular fabric material requirements, including weight, weave density that provides a particular range of opening sizes in the fabric, and a particular grouping of warp threads and weft threads, all to provide human visual perception through the fabric while blocking UV radiation in particular ranges in A Category and B Category.

Moreover, as pointed out hereinabove, there is no suggestion in the secondary references to modify Edwards et al. to substitute 100% pigmented acrylonitrile polymer for the Edwards et al. fabric which has UV light blocking particles, as required by Edwards et al., nor the yarn number, weave density and grouping of threads suggested by the secondary references. The overall combination of features set forth in Appellants' claims are not made obvious to one of ordinary skill in the art in view of the art cited by the Examiner. The prior art clearly fails to suggest making the combinations of features set forth in Appellants' claims, as has been pointed out throughout the



prosecution of this application, including the Brief filed on July 23, 2004. Accordingly, Appellants respectfully submit that the Examiner has erred in rejecting Claims 11 through 16, 18 and 19 over the prior art of record, that the claims as presented for consideration on appeal are in compliance with the requirements of the statute, are allowable and that such claims should be passed to issue.

Respectfully submitted,

Date: 1/14/05

Michael E. Martin  
Michael E. Martin  
Registration No. 24,821  
Agent for Appellants

Gardere Wynne Sewell LLP  
1601 Elm Street, Suite 3000  
Dallas, Texas 75201-4761  
Phone (214) 999-3000  
Fax (214) 999-3623

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